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Human rights situations that require the Council's attention

Written statement* submitted by International Educational Development, Inc., a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The situation of the Hmong people in the Lao People's Democratic Republic

International Educational Development, Inc. and the Association of Humanitarian Lawyers have been concerned for some time about the dire situation of the Hmong people in the Lao People's Democratic Republic (hereinafter Laos). Our home state California has welcomed tens of thousands of the Hmong refugees who first began to flee Laos at the end of the Vietnam War and who continue to flee, seeking asylum due to persecution and other gross violations of human rights. The Hmong people still in Laos are at grave risk of extermination. There are now new threats that we wish to bring to the Council for appropriate action.

As we set out in our written statement A/HRC/30/NGO/123, the Hmong people in Laos have as their traditional homeland the areas in and around what was known as the Ho Chi Minh Trail and their difficulties with the Laotian authorities began because the Hmong people's army supported the United States during the Vietnam War. In 1975 the Pathet Lao took over Laos after the fall of Saigon and the new Laotian government vowed to wipe out the Hmong in a planned program of both extermination and ethnic cleansing. Thousands of Hmong people fled and the United States began accepting Hmong refugees. By 2010 there were nearly 250,000 Laotian Hmong in the United States and only about 450,000 left in Laos. Hmong still in camps in Thailand are at constant risk of forcible repatriation to Laos by Thailand: in 2009 4,000 Hmong were forcibly deported to Laos.[1] Even Hmong people granted refugee status in third countries were not allowed to leave Thailand for them but instead were placed in detention pending repatriation to Laos.[2] We also noted that the Committee on the Elimination of Racial Discrimination (Committee) raised serious concerns about the situation of the Hmong people in Laos since 2003 when it invoked its early warning and urgent action procedures. Concerns and recommendations were also prominent in its review of Laos, especially at its review in 2012.[3] We also noted that Laos had its Universal Periodic Review in 2014/2015, with the report (A/HRC/29/7/Add.1) adopted on 23 June 2015. Concerns regarding the Hmong were raised by treaty bodies, especially the CERD Committee.[4] The CERD Committee noted that the responses it requested in 2013 regarding violence against the Hmong were unfulfilled. It indicated that it had raised allegation of serious actions against the Hmong since 2003, and that it placed the situation under its early warning and urgent action procedures, to no avail. A joint statement (JS4) was submitted by two non-governmental organizations and referred to in the Summary (A/HRC/WG.6/21/LAO/3 (20 October 2014). This statement identified the crisis situation of the Hmong people, especially the starvation and lack of basic medical supplies and the forced repatriation of refugees from neighboring countries.

The Hmong people, especially those in the jungles of the Phou Bia area, (also known as Saysomboun Special Zone or Saysomboun province) face constant military actions against them as they are still considered the enemy. As a consequence they are forced to relocate and hide on a continual basis. Food and medicine are in short supply as the Laotian authorities have a blockade on these items Because of the constant moving there are no stable places of residence and even temporary structures are destroyed by the Lao forces. Agriculture is difficult if not impossible, compounding the serious food shortages due to the blockades and when the Lao forces find fruit tree or crops they destroy them. This is a crime against humanity as set out in Article 7 (1)(b) and (2)(b) of the Rome Statute that identify creating conditions of life that are extremely difficult and the denial of food and medicine as elements of the crime of extermination.[5]

Hmong children are at particular risk of loss of life and serious, permanent physical conditions. In April 2011 the Committee on the Rights of the Child considered the malnutrition and high incidence of wasting disease in the rural areas where the Hmong are an emergency situation. Since that alert, there has been no change in the situation of Hmong

[1] B. Doherty, "Thailand begins deportation of more than 4,000 Hmong asylum seekers," www.theguardian.com/world/2009/dec/28/Thailand-deportation-Hmong-Laos.

[2] W.L. George, "Hmong Refugees Live in Fear and Laos in Thailand, *Time*, 24 July 2010.

[3] Concluding observations (2012) CERD/C/LAO/CO/16-18 (24 March 2012).

[4] The Compilation report is A/HRC/WG.6/21/LAO/2.

[5] The Lao People's Democratic Republic has not ratified the Rome Statue or Regulations, but we refer to its previsions to underscore the gravity of the offenses by the authorities against the Hmong people.

children. In June 2015, the Committee to the Optional Protocol to the Convention on the Rights of the Child involving children in armed conflict made many recommendations in regards to serious shortfalls in Laotian compliance.[6]

From 1975 to 2015 the Laotian government concentrated its intentions to exterminate or ethnically cleanse the Hmong people to the jungle areas of the Saysomboun Special Zone and some Hmong community leaders in the city or villages. But from September 2015 to the present time, they have also focused on the Hmong in the cities in that zone, with a reported 200 Hmong killed and scores more wounded. Killings also take place on their farms, inside their homes, and on the roads ways to and from their farms. For example, in January 2016 a Hmong woman was killed while she went out to feed her pigs nearby her house and a Hmong boy was killed while he walked to school. Many Hmong have been arrested were arrested and disappeared after the incidents and no one can ask any questions. The Laotian authorities foster the idea that Hmong from the jungle areas are doing the killing, but this does not make sense -- we are in contact with Hmong people in the area and they report that clearly the Laotian authorities are to blame.[7]

Conclusions and recommendations

It is patently clear that the Laotian authorities have no intention of adequately addressing the situation of the Hmong people. It is also clear that action by United Nations bodies to date continues to be grossly inadequate to address the extremely serious situation of the Hmong people in Laos. Laos has not allowed on site investigations and without such investigation, it is difficult to formulate effective action and get an effective plan implemented. The treaty bodies can only issue early warnings and urgent actions, but there has to be an effective action in response. The UPR process can serve to illustrate or identify violations, even serious ones, but it alone is not an action procedure. The International Committee of the Red Cross can undertake relief efforts, but in this case are restrained from doing so by the relevant authorities.

We again recommend the following actions that should be undertaken:

1. The international community should invoke the Responsibility to Protect (R2P) mechanisms as soon as possible.
2. The Secretary-General should consider action on this situation such as encouraging or instigating independent investigation.
3. The relevant mandate holders of the Council, including those addressing summary execution, disappearances, torture, internally displaced persons, health, food, water and sanitation, arbitrary detention, human rights defenders, truth, and minority issues should request on site visits to the Hmong areas in Laos, either alone or in concert.
4. Given that nearly all special procedures are highly relevant to the situation in the Hmong areas of Laos, the Council should consider requesting the High Commissioner to undertake action, including establishing a team of inquiry as has been established in other situations. In the alternative, the Council should establish its own committee of inquiry or appoint a special rapporteur or independent expert.

Association of Humanitarian Lawyers, an NGO without consultative status, also shares the views expressed in this statement.

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[6] See, CRC/C/OPAC/Lao/CO/1 of 3 June 2015. We note that this document is still in the Advanced Edited version.
[7] We have the names and particulars of many of the persons killed but for security reasons cannot mention them.